IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8097 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

SAIYED MAZHARUL HAQUE

Versus

SAIYED KAMANUDDIN AHMEDMIYA

Appearance:

1. Special Civil Application No. 8097 of 1993

MR GM JOSHI for Petitioner No. 1

MR RASHEED KHAN for Respondent No. 1

CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 11/10/2002

ORAL JUDGEMENT

Heard learned advocate Mr. Joshi for the petitioner. Learned advocate Mr. Rasheed Khan for

respondent No.1 has not remained present when the matter was taken up for hearing. This being the old matter, has been taken up for hearing in his absence.

By way of this petition, the petitioner has challenged the order made by the labour court Ahmedabad in Recovery application No. 2600 of 1985. As per the said order, the labour court has rejected the recovery application filed by the workman petitioner before the labour court. Before the labour court, the respondent has raised contention that the respondent is not an industry within the meaning of section 2(j) of the I.D. Act, 1947 being Charitable Religious Trust. This question has been examined by the labour court in detail keeping in view the relevant provisions contained in section 2(j) of the I.D. Act and has come to the conclusion that the petitioner has failed to establish that the respondent is an industry within the meaning of section 2(j) of the I.D. Act, 1947. The labour court has considered that the respondent is simply a religious charitable trust and the income from the property of the trust is also small and limited and, therefore, it also cannot be considered as a business establishment. The labour court has also considered the annual report at Exh. 31 and after considering the decision of the apex court in case of Bangalore Water Supply and Sewerage Board etc. versus A. Rajappa and others reported in 1978 Lab. & Ind. Law Reporter page 447, the labour court was of the view that looking to the various activities carried out by the respondent trust, it cannot be considered as an industry and, therefore, in view of such conclusion, the labour court has not entertained the recovery application and has therefore rejected the same.

I have considered the submissions made by Mr. Joshi. I have also perused the order of the labour court. Learned advocate Mr. Joshi has not been able to point out any material wherefrom it could be inferred that the respondent is an industry within the meaning of section 2(j) of the Act. He has also not been able to point out any infirmity in the order made by the labour court. According to my opinion, there is no error apparent on the face of it and, therefore, the petition has no merits and the same is required to be dismissed.

In view of the above discussion, this petition is dismissed. Rule is discharged with no order as to costs.

Dt. 11.10.2002. (H.K.Rathod,J.)

Vyas